

**IN THE COURT OF JUDICIAL MAGISTRATE 1<sup>ST</sup> CLASS,  
LAKHIMPUR, NORTH LAKHIMPUR.**

**GR CASE NO.362/2016**  
**U/s 498A IPC**

**PRESENT:**

**SMT. SWEETY BHUYAN**  
Judicial Magistrate 1<sup>st</sup> Class  
Lakhimpur, North Lakhimpur.

**PARTIES:**

State of Assam

Vs

Md. Hamza Ali ..... **ACCUSED PERSON**

**Appearance:**

For the State .....: MR. JANGKI DOLEY

For the accused .....: MR. BROJEN BORUAH

Dates of Evidences .....: 19.06.2018, 30.04.2019,  
29.07.2019, 19.11.2019,

Date of Argument .....: 13.02.2020

Date of Judgment .....: 29.02.2020

**JUDGMENT**

- 1.** The accused person, namely, **Md. Hamza Ali**, Son of Md. Kapnu Ali,  
R/o village - Napamuah, Police Station - Narayanpur in the District of

Lakhimpur, here in this case has been put to trial to answer the charges for the offence Punishable under section 498A of IPC.

- 2.** A complaint petition was filed by the complainant Tamina Begum against Md. Hamza Ali, Md. Jalo Ali and Musstt. Jahir Begum on 21.01.2016 before the Court of the Hon'ble C.J.M., Lakhimpur, North Lakhimpur, which was forwarded to the Narayanpur PS for investigation and the same was registered as Narayanpur Police Station Case No. 34/2016 under Section 498A of the Indian Penal Code against Md. Hamza Ali, Md. Jalo Ali and Musstt. Jahir Begum named in the ejahar. The Investigating Officer submitted Charge Sheet against the accused person Md. Hamza Ali under Section 498A IPC.
- 3.** The complainant/informant stated in her complaint petition that the accused is her husband and Jalo Ali is her elder brother in law and Jahir Begum is the wife of Jalo Ali. Their marriage was solemnized about 17 years ago from the date of lodging the complaint. After four years of their marriage the accused with the help of Jalo Ali and Jahir Begum started torturing the complainant/informant mentally and physically by demanding dowry. Five children were born to them. The accused chased the informant out of his house to her parental house asking her to bring money from her parental house, but she could not fulfill his demands due to which she was severely assaulted. In the month of September, 2015 the accused demanded Rs.30,000/- from the informant and as she could not bring the money he tried to cut her with a dao and tried to kill her. The informant somehow saved her life

and returned to her parental house. The accused further threatened her that if she entered his house he will cut her into pieces. Since then she has been taking shelter in her parental house. Hence, the case.

4. After perusing CR, formal charges u/s 498A of the Indian Penal Code was framed by my learned predecessor and read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.
5. In support of the case, the prosecution has adduced 5(Five) PWs. The statement of the accused was recorded under Section 313 Cr.P.C. and the accused person denied of committing the alleged offence and also denied to adduce evidence in his support.
6. After perusing the case record and hearing both sides the following point of determination is framed:

(i) Whether the accused person, around 17 years ago, married the informant, Musst. Tamina Begum, and during the subsistence of this marriage, the accused treated the informant with cruelty and thereby committed an offence under Section 498A of the Indian Penal Code?

**Decisions and Reasons for decision:**

7. I have heard the argument from both sides.
8. The informant stated in her complaint petition that the accused is her husband and Jalo Ali is her elder brother in law and Jahir Begum is the wife of Jalo Ali. Their marriage was solemnized about 17 years ago

from the date of lodging the complaint. After four years of their marriage the accused with the help of Jalo Ali and Jahir Begum started torturing the complainant/informant mentally and physically by demanding dowry. Five children were born to them. The accused chased the informant out of his house to her parental house asking her to bring money from her parental house, but she could not fulfill his demands due to which she was severely assaulted. In the month of September, 2015 the accused demanded Rs.30,000/- from the informant and as she could not bring the money he tried to cut her with a dao and tried to kill her. The informant somehow saved her life and returned to her parental house. The accused further threatened her that if she entered his house he will cut her into pieces. Since then she has been taking shelter in her parental house.

- 9.** Hence, the allegations of the informant is that the accused tortured her mentally and physically by demanding dowry and as such, charge under Section 498A of the Indian Penal Code was framed against the accused for committing cruelty against the informant.
- 10.** The informant in her evidence as PW1 stated that the accused assaulted her and threw her out of his house about three years ago from the date of adducing evidence. That he kicked her and slapped her and after that when she returned to his house, he chased her with a dao. That she has been presently residing in her parental house.
- 11.** The other PWs does not know anything about the commission of cruelty by the accused. The PW2 and PW3 only heard that there was a

quarrel between both the parties. None of the PWs deposed that the accused tortured the informant. The PW4 who is the son of the informant also did not mention anything about any tortures meted out to his mother by the accused. In fact, in his cross-examination, he admitted that his father never assaulted her nor demanded any dowry from her and that his mother has lodged a false case against his father.

**12.** Hence, other than the informant no other PWs have deposed about any cruelty meted out by the accused upon the informant, as such, the prosecution has miserably failed to establish the guilt of the accused beyond all reasonable doubts thereby making him not guilty under Section 498A of the Indian Penal Code.

**(CONTD....)**

**ORDER**

As this court finds the accused person, namely, **Md. Hamza Ali**, not guilty of the offence u/s 498A of the Indian Penal Code, the accused person is acquitted of the charge u/s 498A of the Indian Penal Code.

The accused person is set at liberty forthwith.

The bail bond is extended for 6 (six) months from today.

The judgment is pronounced in the open court.

Given under my hand and seal of this court on 29<sup>th</sup> of  
FEBRUARY, 2020.

(SMT. SWEETY BHUYAN)  
JUDICIAL MAGISTRATE 1<sup>ST</sup> CLASS  
Lakhimpur, North Lakhimpur

Dictated & Corrected by me:

(SMT. SWEETY BHUYAN)  
JMFC,NORTH LAKHIMPUR

Transcribed & typed by me:

Kumar Gaurav (Stenographer)

**APPENDIX**

**Prosecution witnesses**

1. PW1 : TAMINA BEGUM
2. PW2 : SAKINA BEGUM
3. PW3 : ROBIUL ALI @ RIBIRUL ALI
4. PW4 : RAHIM ALI
5. PW5 : RETD. ASI SHIBA PD. BONIA

**Defence witnesses**

NIL

**Documents exhibited by the prosecution**

1. EXT.1: SKETCH MAP
2. EXT.2: CHARGE SHEET

**Documents exhibited by the Defence**

NIL

(SMT. SWEETY BHUYAN)  
JUDICIAL MAGISTRATE 1<sup>ST</sup> CLASS  
Lakhimpur, North Lakhimpur

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JMFC,NORTH LAKHIMPUR

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